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RUEHCV/AMEMBASSY CARACAS 3157
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C O N F I D E N T I A L SECTION 01 OF 05 BRASILIA 000579

SIPDIS

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STATE FOR S/CT - NOYES
STATE FOR WHA - D. MCCARTHY/C.CROFT
STATE FOR INL - RINDLER
TREASURY FOR TFI - O'BRIEN, MEDINA
DHS FOR ICE - D.THOMPSON
TREASURY FOR FINCEN - SHOWELL

E.O. 12958: DECL:03/09/2016

TAGS: [KTFN](#) [EFIN](#) [PTER](#) [SNAR](#) [ETTC](#) [PREL](#) [BR](#)

SUBJECT: BRAZIL - TREASURY A/S O'BRIEN MEETINGS ON MONEY
LAUNDERING, TERROR FINANCE

REF: BRASILIA 0410

Classified by Deputy Econ Counselor Andrew Plowman based upon
Reasons 1.5(B) and (D).

¶1. (C) Summary: GoB interlocutors told Treasury A/S O'Brien during Brasilia meetings March 6 and 7 that the GoB has no evidence of terror cells or terrorist financiers operating in the Brazil-Paraguay-Argentina Tri-border Area (TBA). Ministry of Foreign Affairs Transnational Crimes Coordinator Marcos Pinta Gama expressed frustration that while USG officials have been making public statements about such activities taking place in the TBA, the USG is not sharing such information with the GoB. O'Brien responded that the USG remains concerned that the region is uniquely vulnerable to abuse as a source of financing for groups with links to terrorist organizations, citing the example of Ahmad Barakat, whom the USG had designated a terror financier. The GoB is drafting counter terrorism legislation that would criminalize terror financing and expects to create, via decree, a high-level counter-terrorism coordination group, most likely in the Institutional Security Cabinet (GSI). It is also moving to refine its anti-money laundering regime through legislation, currently in draft, that would implement the Financial Action Task Force (FATF) recommendation on politically-exposed persons and give the GoB administrative authority to freeze transactions. Several opportunities for cooperation were highlighted, including the GoB's plans to overhaul its law enforcement and prosecutorial training programs. GoB interlocutors welcomed progress on establishing a Trade Transparency Unit and asked for assistance on how to manage and dispose of seized assets. End Summary.

¶2. (C) Background: a Treasury and DHS delegation, led by Assistant Secretary for Terrorism Finance and Financial Crimes Patrick O'Brien held meetings with senior GoB counterparts March 6 to 7 in Brasilia. The U.S. delegation included Treasury policy analyst Cynthia Medina, Public Affairs Officer Molly Millerwise, FINCEN regional analyst Jennifer Showell and David

Thompson, Chief of the Money Laundering Coordination Center at the Department of Homeland Security Immigration and Customs Enforcement Bureau (DHS-ICE). The delegation met with: Ministry of Foreign Relations Coordinator for the Combat Against Illicit Transnational Activities Marcos Pinta Gama; Gustavo Rodrigues, President of the Council for the Control of Financial Activities (COAF - Brazil's financial intelligence unit); Superior Criminal Court Justice Gilson Dipp; Deputy Director of the Institutional Security Cabinet, General Wellington Fonseca and Intelligence Agency (ABIN) Intelligence Department Director Carlos Calvano; Ministry of Justice Department Head for International Cooperation and Asset Seizure Antenor Madruga; Receita Federal (IRS-equivalent) Assistant Secretary Cardoso and Customs Service Director Medina; and, Central Bank Department Head for the Combat of Illicit Financial Activities Ricardo Liao. O'Brien also held a press roundtable on March 7.

Draft Terrorism Legislation

13. (C) COAF President Rodrigues acknowledged to A/S O'Brien during their March 6 meeting that, even though Brazil had now ratified the UN convention on the suppression of terrorist financing, it still had the most to do in the area of terror financing in order to bring its legal framework up to international standards. The GoB had developed a policy paper on the issue, he said, which the Institutional Security Cabinet (GSI -- an office combining functions of the NSC and DNI, which reports directly to the President) was using as the basis for drafting a law that would define terrorism and its financing as criminal acts for domestic legal purposes. Superior Criminal Court Justice Gilson Dipp clarified separately that, were a

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terrorist act or terrorist financing to take place on Brazilian soil before a new terrorism law is passed by Congress, Brazilian judges could theoretically apply the UN terrorism conventions, since they now carry the force of law in Brazil. There is, however, little direct precedent for this option.

14. (C) Another alternative, Justice Dipp said, would be to apply the 1983 national security law, which defines several types of acts as terrorism. He admitted that applying the 1983 law, which dates back to the military dictatorship and pre-dates the 1988 constitution, might prove legally complex and politically unpalatable to some. GSI Deputy Director General Wellington told O'Brien that the Institutional Security Cabinet was considering a parallel measure to establish a high-level coordination council to deal with counter-terrorism policy and coordinate response to terrorist acts. The unit likely would be located in the GSI, although placing it in the intelligence agency (ABIN) was another possibility. The GoB hoped to establish the group well in advance of the 2007 Rio de Janeiro Pan American Games, so that it could participate in security planning for the games, Wellington said.

Trade Transparency Unit

15. (SBU) O'Brien and David Thompson of DHS-ICE described for all their Brazilian interlocutors the advanced status of planning for the establishment of a U.S.-Brazil Trade Transparency Unit (TTU), initial set-up of which may begin within two weeks. Thompson noted that the preliminary data exchanges already had produced several leads for investigation by both sides and expressed confidence in the value of the unit for both parties. GoB interlocutors, particularly Receita Federal's Cardoso and Customs Director Medina, welcomed the progress on the TTU.

Tri-Border Area -- Please Share Your Information

16. (C) GSI Deputy Director General Wellington, ABIN Intelligence Director Calvano, MRE Transnational Crimes Coordinator Pinta Gama and COAF President separately delivered to O'Brien the same talking point on the TBA: although the GoB has significant

police, customs and intelligence assets in the TBA, it has found no evidence of operational terrorist cells or even of terror financing in the region. Wellington acknowledged that while there is undoubtedly a flow of remittances from Brazil to Lebanon, the GoB has not been able to find evidence that these go to support terrorism. O'Brien responded that the USG remains concerned that the region is uniquely vulnerable to abuse as a source of financing for groups with links to terrorist organizations, citing the example of Ahmad Barakat, whom the USG had designated a terror financier. And while the GoB might not see an operational terrorist threat in that region, terror is now a global issue and all countries must act accordingly, O'Brien argued. In that context, he commended the GoB ratification of the UN terrorism financing convention and urged the government to continue its review of Brazil's counter-terrorism legal framework.

¶7. (C) Pinta Gama acknowledged that the TBA is vulnerable to transnational crime of various sorts. There is political will to address these issues, he affirmed, pointing to enhanced enforcement of border controls by Brazilian Customs and police officials and Brazil's increased enforcement of anti-IPR piracy laws. The GoB also actively had participated in the multilateral 3 plus 1 framework, Pinta Gama noted, and felt that this year would be crucial for the GoB's assessment of the future of that mechanism. Pinta Gama expressed frustration that senior USG officials continue to make public statements about the presence of terrorists and terrorist financing in the TBA,

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but that despite the existence of this coordinating mechanism and useful bilateral channels the USG does not share detailed information on these persons. The GoB, Pinta Gama said, did not want this to "jeopardize" what was otherwise a very useful dialogue and coordination mechanism. (Comment: Although we're used to hearing this GoB complaint, Pinta Gama's language was qualitatively stronger than during previous iterations, albeit delivered with diplomatic polish. End Comment.)

¶8. (C) ABIN's Calvano stated that the TBA regional intelligence center is close to being up and running, but some details remain to be ironed out with Paraguay and Argentina (comment: in other words, whether Paraguayan and Argentine officials will staff the center at all). Wellington noted the idea for the TBA center is based on a successful (NAS-funded) regional intelligence center in the Amazon city of Tabatinga, where Colombia, Brazil and Peruvian borders meet. The GoB, he said, also is considering establishing a similar center on the Bolivian border since it expects reduced coca eradication under the Evo Morales Presidency.

Opportunities for Cooperation

¶9. (SBU) MOJ International Cooperation Director Madruga explained to O'Brien that the GoB plans to overhaul the various training programs belonging to different law enforcement agencies and the courts. It planned to introduce standardized content for similar courses, certify the course instructors and issue course certificates to students as well. This approach, he said, would help ensure the quality of courses across agencies. The course certificates would allow students to count the coursework towards job or promotion requirements. The GoB plans an inter-agency coordination meeting at the end of March. Emboff noted that the Embassy is looking at how better to target USG-offered law enforcement training and suggested that both sides coordinate their efforts.

¶10. (SBU) Receita Federal A/S Cardoso and Customs Director Medina asked O'Brien for USG expertise in managing asset forfeiture funds. The GoB's enhanced customs enforcement operations, particularly in the TBA meant Brazilian Customs was seizing assets at a rate far quicker than it could dispose of them, resulting in overflowing warehouses and impound lots. O'Brien and Thompson outlined how the Treasury and Department of Justice asset forfeiture funds work and undertook to try to

facilitate an exchange of technical expertise. Thompson also noted the possibility of training for combating the growing use of cash-couriers, which Medina and Cardoso welcomed.

Refining the AML Regime

¶11. (SBU) The MOJ's Madruga stated that the GoB had begun to effect a culture-change in law enforcement on the importance of Anti-Money Laundering, which Justice Minister Bastos had made a priority from the beginning of the Lula administration in 2003. This was reflected in the fact that the GoB had, in December 2005, held its third annual national anti-money laundering strategy session and was well on its way to institutionalizing the process, although more work remained to be done. Rodrigues said that COAF plans to double in size, in large part to deal with the huge increases in suspicious transaction reporting from banks, factoring businesses, real estate brokers and other entities. He cited reporting from "factoring" businesses which increased from 27 reports in 2004 to 12,000 in 2005, due in large part to a new requirement to report any transaction above Reais 50,000 (about USD 23,000).

¶12. (SBU) Rodrigues noted the GoB is working on draft

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legislation to refine the AML regime. One key aspect of the draft would be the definition of politically-exposed persons (PEPs), whose financial transactions would come under enhanced scrutiny by financial institution compliance officers. The Central Bank's Leao said the current draft also would give the GoB administrative authority to freeze transactions temporarily while it seeks a court order (from one of the specialized anti-money laundering courts) confirming the freeze. Leao stated there was still discussion about where this authority would reside within the government. Separately, Rodrigues affirmed that he did not want the administrative authority to freeze a transaction to reside with COAF. O'Brien argued that such administrative authority was essential to act quickly enough to block suspect transactions.

¶13. (SBU) Rodrigues stated that the GoB included in the 2006 anti-money laundering national strategy document a goal of improving feedback to COAF on its reports to law enforcement of suspicious financial activities. To date, he said, feedback had been lacking. Recently law enforcement agencies had begun to inform COAF when they have opened a formal investigation based on one of its reports, but they still receive little comment on the quality of the reports. Currently, the principal way COAF learns of the value of a particular report is when it sees press reports of the arrests of persons on whom it reported. One such recent case, Rodrigues stated, was the federal police arrest of persons who were falsifying Kimberley Certificates for diamonds (reftel). COAF, he said, is increasing its own feedback and outreach to the reporting institutions in a bid to improve the quality of suspicious transaction reports.

¶14. (SBU) Justice Dipp noted that Brazil's federal-level specialized courts for dealing with financial crimes were proving themselves a resounding success, with prosecutions and convictions both up substantially since their creation in 2003. The existence of the specialized courts also was encouraging some specialization from the prosecutors and law enforcement agencies that worked with them. Dipp stated that these particular judges (25 total, in the principal Brazilian regional capitals) also were proving themselves to be innovative in their application of existing legal authorities (e.g. plea bargaining) but which Brazilian judges rarely applied. Furthermore, Dipp affirmed, the Federal Judicial Council was ensuring feedback and promoting the adoption of best practices by hosting twice-yearly meetings of these judges to discuss the program's practical implementation. Despite the success of these federal-level specialized courts, Dipp noted there was no analogue at the state level, where the majority of money laundering cases are tried. O'Brien suggested the GoB share the results of this successful experiment with regional counterparts.

Brazil's FATF-South Agenda

¶15. (SBU) COAF President Rodrigues outlined to O'Brien his priorities for Brazil's presidency of the FATF South. First, he said, the GoB wants to focus on getting terrorist finance laws passed in those jurisdictions where this has not yet been done. His second priority is to focus a bit more on regionally-relevant issues, particularly corruption and tax evasion. To this end, he wanted to promote implementation of the FATF recommendation on politically exposed persons, as Brazil was working to do. He also hoped FATF-South could develop additional recommendations that would bolster anti-corruption efforts. Finally, Rodrigues contemplated improving the mutual evaluation process, which he argued needed to be strengthened.

¶16. (U) A/S O'Brien was unable to clear this message before leaving post.

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